Application no.: 09/839,336
Office Action dated 04/13/2004
Response dated 08/08/2006

Atty. Docket No.: VANBEN.HEREUR.PT2
Customer No.: 24943

REMARKS

I.   STATUS OF THE SPECIFICATION

By the present amendment, paragraph 70 has been amended to remove typographical errors. It is respectfully requested that the amendment to the specification be entered.

II.   STATUS OF THE CLAIMS

Claims 1-24 are pending in the present Application. By the present amendment, claims 1-3, 6, 8, 14, 16-18, 22, and 24 have been amended.

In the Office Action, claims 1-9 are rejected under 35 U.S.C. § 102(b) (hereinafter, "Section 102(b)") as being anticipated by Shuen (U.S. Pat. No. 5,572,528).

Claims 9-16 are method claims and rejected under Section 102(b) for the same reason set forth in connection with the rejection of claims 2-8 respectively.

Claims 17, 19-24 are rejected under 35 U.S.C. § 103(a) (hereinafter, "Section 103(a)") as being unpatentable over Shuen and further in view of the official notice.

Claim 18 is rejected under Section 103(a) as being unpatentable over Shuen and further in view of the official notice and Haff (U.S. Pat. No. 6,219,699).

Applicant respectfully traverses all rejections and requests reconsideration.

III.   REJECTIONS UNDER SECTION 102(b), SHUEN

Claims 1-9 are rejected under Section 102(b) as being anticipated by Shuen.

Applicant respectfully traverses the Examiner's contention that Shuen anticipates claim 1 for the reasons stated below:

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Applicant's claim 1 has been amended, and not ALL of the elements of amended claim 1 are taught in Shuen.

First, according to the Examiner in the Office Action page 3, column 18, lines 52-55 of Shuen teaches the "memory" element in claim 1. The "memory" in Shuen refers to a memory device in a router that stores binding information in data tables. This binding information relates virtual addresses to local addresses necessary in routing packets through a network. Therefore, the memory described in Shuen does not teach or suggest the software that controls operation , "device management function" as described in claim 1, but rather Shuen contains information that is part of the implementation of the router and not software as described in claim 1. Therefore, Shuen does not teach all the elements of Applicant's amended claim 1.

The amended language of Applicant's claim 1, "memory of software", emphasizes the distinguished meaning of "memory" in claim 1 from the meaning of "memory device" in Shuen.

Second, contrary to Examiner's assertion in the Office Action, page 3, Shuen does not teach the "software loading apparatus for loading second software through said network for replacing said first software" in amended claim 1. The "loading" in Shuen does not teach "loading second software through said network for replacing said first software". Rather, Shuen, column 6, lines 48-50 describes "simultaneous loading of, and dynamic switching between, multiple network interface cards." Shuen further explains the meaning of loading in column 5, lines 49-54 as: "enablement of automatic switching between a default and a backup card when a default card drops out is very desirable." This means the loading of multiple network interface cards in Shuen refers to loading a default network interface card to a backup network interface card when the default card drops out. On the other hand, the

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"loading" in Applicant's claim 1 refers to the loading of operating software for access point devices. As such the loading element is not taught in Shuen.

Third, the loading element in claim 1 is not taught by the upgrading element in column 31, lines 1-12 of Shuen. The relevant part of Shuen states, "The mobile host may notify the user . . . unless the software in the mobile host is upgraded." The upgrading component in Shuen describes the behavior of data packets through the network and does not describe upgrading as an element of its invention. As claim 1 recites there is a software loading apparatus for loading a new software, "for loading second software through said network for replacing said first software" which is not taught by Shuen.

Fourth, the uploading element in column 32, lines 14-20 of Shuen does not teach claim 1. The upgrading component in Shuen describes upgrading a data packet in a data packet routing mechanism, not the loading apparatus for new software as described in amended claim 1.

The amended language "software loading apparatus" emphasizes that the loading apparatus is for loading apparatus for new software. Shuen does not teach such an element when it describes network interface cards, or data packets.

Dependent claims 2-8 include all limitations of their base claim 1. Accordingly, Applicant respectfully submits that claims 2-8 are all allowable for at least the same reasons as base claim 1.

Furthermore, column 33, lines 40-46 of Shuen does not teach the server element in claim 2. The server in Shuen "send[s] packets directly to the mobile host's local address", column 33, lines 43-44. This means that the server in Shuen discloses a routing of data packets through the network. On the other hand, the server in Applicant's claim 2 is claimed

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for receiving data and storing the access point software update. Therefore, the server described in Shuen does not teach all elements present in claim 2.

Claim 6 is not taught by column 7, lines 25-29 of Shuen. The relevant part of Shuen describes an automatic configuration of a network to address roaming nodes in creating or identifying network addresses of a node in a primary, secondary, or tertiary network. This means that a network is able to automatically deal with a roaming mobile user that travels network to network. On the other hand, Applicant's claim 6 describes automatic checking and updating of access point software. The elements of claim 6 include not only an **automatic** apparatus but also an apparatus which can both **check and upload at a preset time**. Shuen fails to disclose such elements of "automatically performing said checking and said loading at a preset time point". Therefore, Shuen does not disclose all elements present in claim 6.

Furthermore, the "shut down" element of claim 7 is not taught by the "log off" in Shuen, column 19, lines 34-40. Per Microsoft Press, *Computer Dictionary*, 290, 434 (3d ed. 1997), "log off" is defined as "the process of **terminating session** with a computer accessed **through a communications line**," (emphasis added) whereas "shut down" is defined as "to **close a program or operating system** in a manner ensuring that no data is lost" (emphasis added). In other words, "log off" includes termination of communication session but not necessarily closing a program or operating system, which is included for a "shutdown." Therefore, "log off" does not teach the "shut down" element in claim 7.

The "preset time point" element in amended claim 8 is not taught by "time to live" in column 27, lines 64-65 – column 28, lines 1-5 and column 23, lines 55-59 of Shuen. Per Microsoft Press, *Computer Dictionary*, 469 (3d ed. 1997), "time to live" is defined as "a header field for a packet sent over the Internet indicating **how long** the packet should be

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held." In short, "time to live" is a durational value. On the other hand, "preset time" in claim 8 indicates a time point. "[P]oint" has been added after "preset time" which further clarifies the distinguished meaning of claim 8. Therefore, all the elements of claim 8 are not taught by Shuen.

Claims 9-16 are method claims to the system claims 1-8 and Applicant respectfully requests withdrawal of the rejection for at least the same reasons set forth in connection with the rejection of claims 1-8 respectively.

Therefore, as Shuen fails to teach each and every claim limitation of Applicant's claims, Applicant respectfully requests withdrawal of the rejection of claims 1-16 under Section 102(b).

IV. REJECTIONS UNDER SECTION 103(a)

A. SHUEN AND FURTHER IN VIEW OF THE OFFICIAL NOTICE

Claims 17, 19-24 are rejected under Section 103(a) as being unpatentable over Shuen and further in view of the official notice. Applicant has amended claims 17, 22 and 24.

Applicant respectfully traverses the Examiner's contention that claim 17 is obvious over Shuen and further in view of the official notice for the reasons stated below:

As explained in M.P.E.P. Section 706.02(j):

> To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The three above-mentioned criteria must exist at the time the claimed invention was made, according to the text of Section 103(a) itself. The Examiner has not established a

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prima facie case of obviousness using Shuen and the official notice for at least the reasons stated below.

Applicant has amended claim 17 for clarification which now states the system comprising, "...(b) user authorization server apparatus...". A system is not equal to a user. Applicant objects to the official notice taken by Examiner for "authorizing a user". Shuen fails to disclose how to authorize a user as Applicant has done. Second, there is no motivation as identified by the Examiner to make such a modification which would find the invention as a whole obvious. Therefore, authorization of a user will not be achieved in the same manner as authorization of the system. Moreover, neither Shuen nor the official notice provides for the other elements in claim 17 of " i) first device management software for providing a device management function; (ii) access device loading apparatus for loading second device management software through a network for replacing said, rather, Shuen, column 6, lines 48-50 describes "simultaneous loading of, and dynamic switching between, multiple network interface cards." Shuen further explains the meaning of loading in column 5, lines 49-54 as: "enablement of automatic switching between a default and a backup card when a default card drops out is very desirable." This means the loading of multiple network interface cards in Shuen refers to loading a default network interface card to a backup network interface card when the default card drops out. On the other hand, the "loading" in Applicant's claim 17 refers to the loading of operating software for access point devices which is in no manner anticipated by loading of and dynamic switching between network interface cards. Furthermore, Examiner misapplies lines 1-12 in col. 31 of Shuen which describe the behavior of data packets through the network and do not teach or suggest the access device loading apparatus for loading second device management software as in claim 17. As such the loading element is not taught in Shuen.

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Accordingly, not all the elements of amended claim 17 are taught as required to establish a prima facie case of obviousness.

Therefore, Applicant respectfully requests withdrawal of the rejection of claim 17 under Section 103(a).

Dependent claims 19-24 include all limitations of their base claim 18. Accordingly, Applicant respectfully submits that claims 19-24 are all allowable for at least the same reasons as base claim 18.

Therefore, Applicant requests withdrawal of the rejection of claims 18-24 under Section 103(a).

B. SHUEN AND FURTHER IN VIEW OF THE OFFICIAL NOTICE AND HAFF

Claim 18 is rejected under Section 103(a) as being unpatentable over Shuen and further in view of the official notice and Haff.

Applicant respectfully traverse the Examiner's contention that claim 17 is obvious over Shuen and further in view of the official notice for the reasons stated below:

Dependent claim 18 includes all limitations of its respective base claim 17. Accordingly, Applicant respectfully submits that claim 18 is allowable for at least the same reasons as base claim 19.

Additionally, Applicant's claim 18 has been amended, and not ALL of the elements of amended claim 18 are taught in Shuen and further in view of the official notice and Haff.

First, claim 18 is not taught by the "sign-on request" and "sign-on response" described in Shuen. The network server in claim 18 determines if a user is authorized to access the Internet. Shuen does not determine if a user is authorized to access the Internet. Shuen does not describe whether a user has been uniquely identified or looked up to

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determine whether they are authorized for access. Instead, the sign-on request/response system in Shuen helps route packets to their proper destination. The part cited by the Examiner describes a router checking the sign-on request, not to determine whether a user is authorized, but to determine whether a "node number" is in use.

The amended claim 18 language, "user authorization server apparatus" clarifies the scope of the authorization server apparatus to be limited into the users not node numbers or others.

Second, redirection disclosed in Shuen does not teach claim 18. Shuen refers to the redirection of data packets in the network whereas claim 18 refers to a redirection of a user's request for access and authorizing an unauthorized user.

Third, column 7, lines 42-44 of Haff does not teach the gate keeper server of claim 18, which is neither taught by Shuen. Haff describes a "gate keeper" used in a file transfer program that resides on the receiving computer and selectively and automatically accepts file transfers based on authenticated identity of a transmitting computer. In contrast, Haff does not teach the gate keeper server in claim 18 which receives authorization from the authentication server and works with the authentication server to grant access to the Internet. The description of Haff's gate keeper on the receiving computer does not teach such an element of claim 18. Although identically named, the above mentioned gate keepers function differently.

Therefore, Applicant respectfully requests withdrawal of the rejection of claims 26-32 under Section 103(a).

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V.   CONCLUSION

The above-discussed remarks are believed to place the present Application in condition for allowance. Should the Examiner have any questions regarding the above amendments, the Examiner is requested to telephone Applicant's representative at the number listed below.

Respectfully submitted,

Date: _August 8, 2006_

/signature/

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